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REMARKS

Claims 1-18, 42 and 44-56 are all the claims presently pending in the application. Claims 1, 5, 6, 9-10 and 17 have been amended to more particularly define the invention. Claims 16, 19-41 and 43 have been canceled. Claims 44-56 have been added to claim additional features of the claimed invention.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-18 and 42 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 2, 4-10, 12-18 and 42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Walker et al. (U.S. Patent No. 6,356,878). Claims 1-18 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the alleged admitted prior art (APA) in view of Walker et al. (U.S. Patent No. 6,341,268)

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

The claimed invention (e.g., as recited in claim 1) is directed to a system for buying and selling merchandise. The system includes a network including a plurality of user terminals, a memory device for storing a predetermined event for the merchandise, and at least one processor, accessible by the plurality of user terminals, for automatically adjusting a price of the merchandise upon an occurrence of the predetermined event, and matching a buyer with the merchandise to facilitate a transaction. Further, the network includes the Internet, the memory device and the at least one processor being included in a seller website which is accessible via the Internet.

Importantly, the processor generates a document which is stored in the memory device and includes an adjusted price of the merchandise, the document being viewable by using a web

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browser on one of the plurality of user terminals.

Conventional systems do not adjust (e.g., automatically adjust) a price of merchandise or generate a document (e.g., including an adjusted price of the merchandise) which is viewable by using a web browser on one of the plurality of user terminals).

The claimed invention, on the other hand, includes a processor which generates a document (e.g., including an adjusted price of the merchandise) which is viewable by using a web browser on one of the plurality of user terminals (Application at Figure 2B; page 10, lines 2-22). This allows the claimed invention to conveniently provide an adjusted price (e.g., an automatically adjusted price) to a buyer via the Internet.

II. THE 35 USC §112, SECOND PARAGRAPH REJECTION

Claims 1-18 and 42 stand rejected under 35 U.S.C. §112, second paragraph. Applicant respectfully disagrees with the Examiner.

Applicant notes that the claims have been amended to clarify that an invocation of 112, sixth paragraph is not intended.

Further, Application respectfully submits that, contrary to the Examiner's allegations, claims 2, 3, 9-10, 12 and 14-15 clearly further limit the scope of the invention. For example, claim 2 limits the merchandise in the claimed invention to include "time-sensitive merchandise", claim 3 limits the predetermined invention stored in the memory device to include "a decrease of an expiration period", and so on. Further, the claim limitations are not merely "price adjustments" as alleged by the Examiner.

Therefore, contrary to the Examiner's allegations, claims 1-18 and 42 are clear and not indefinite.

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw this rejection.

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III. THE PRIOR ART REFERENCES

A. The Walker '878 Reference

The Examiner alleges that Walker '878 teaches the invention of claims 1, 2, 4-10, 12-18 and 42. Applicant submits, however, that there are elements of the claimed invention which are neither taught nor suggested by Walker '878.

Walker '878 discloses a conditional purchase offer (CPO) buyer agency system which processes variable CPOs (e.g., a binding offer containing at least one variable condition submitted by a buyer for the purchase of an item). Further, the Walker system allows a buyer to submit multiple purchase offers at the same time (Walker '878 at col. 3, lines 22-47).

However, Walker '878 does not teach or suggest *"wherein said processor generates a document which is stored in said memory device and includes an adjusted price of said merchandise, said document being viewable by using a web browser on one of said plurality of user terminals"*, as recited, for example, in claim 1.

As noted above, unlike conventional systems, the claimed invention includes a processor which generates a document (e.g., including an adjusted price of the merchandise) which is viewable by using a web browser on one of the plurality of user terminals (Application at Figure 2B; page 10, lines 2-22). This allows the claimed invention to conveniently provide an adjusted price (e.g., an automatically adjusted price) to a buyer via the Internet.

Clearly, this novel feature is not taught or suggested by Walker '878. Indeed, Applicant would respectfully point out that Walker '878 is **merely intended to make it more convenient for a buyer to make multiple purchase offers**. Nowhere does Walker '878 even mention an "adjusted price of merchandise" (e.g., a price which is adjusted (e.g., automatically adjusted) upon the occurrence of an event), and Walker '878 certainly does not teach or suggest an adjusted price which is included in a document which is viewable by using a web browser on one of said plurality of user terminals.

Further, the Examiner attempts to equate the database 700 in Walker '878 with the memory device in the claimed invention. However, Walker '878 states only that the database 700 "stores information on each seller registered with the CPO buyer agency system 100 to sell

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products to CPO customers, including the name of the seller and an indication of CPOs which have been accepted by each seller" (Walker '878 at col. 9, lines 26-31). Thus, it is clear that the database 700 does not store a predetermined event the occurrence of which may trigger an adjustment of the merchandise price.

Further, the Examiner states that "cpu accepting a price consistent with inventory levels/demand is read as automatically adjusting price" and also relies on "seller's price flexibility" to support his arguments. However, the Examiner is clearly incorrect.

In fact, Applicant respectfully submits that it is clearly unreasonable to read "accepting a price consistent with inventory levels/demand" with adjusting a price. In addition, the term "seller's price flexibility" in Walker '878 likely refers to the lowest price that a seller will take to sell the merchandise. Applicant respectfully submits that it is impossible to glean from this trivial pronouncement, adjusting a price upon the occurrence of a predetermined event (e.g., a passage of a period of time). Therefore, Applicant respectfully submits that the Examiner is clearly using impermissible hindsight reasoning to reach his conclusion that the novel features of the claimed invention are taught by Walker '878.

Therefore, Applicant submits that there are elements of the claimed invention that are not taught or suggested by Walker '878. Therefore, the Examiner is respectfully requested to withdraw this rejection.

B. The Alleged APA and the Walker '268 References

The Examiner alleges that the Alleged APA would have been combined with Walker '268 to form the invention of claims 1-18 and 42. Applicant submits, however, that these alleged references would not have been combined and even if combined, the alleged combination would not teach or suggest each and every element of the claimed invention.

The Alleged APA (e.g., Application at Figure 1) discloses a negotiation system 150 in which a participant 140 may propose terms to another participant over the Internet.

Walker '268 discloses a system for providing a restaurant menu, in which a price is automatically determined based at least partly on revenue management information.

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Applicant respectfully submits that these references would not have been combined as alleged by the Examiner. Indeed, the alleged APA is directed to a negotiation system 150, whereas Walker '268 is merely directed to a restaurant menu. Clearly, these references are completely unrelated, and no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, contrary to the Examiner's allegations, neither of these references teach or suggest their combination.

Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

Moreover, neither the alleged APA, nor Walker '268, nor any alleged combination of these references teaches or suggests "*wherein said processor generates a document which is stored in said memory device and includes an adjusted price of said merchandise, said document being viewable by using a web browser on one of said plurality of user terminals*", as recited, for example, in claim 1.

As noted above, unlike conventional systems, the claimed invention includes a processor which generates a document (e.g., including an adjusted price of the merchandise) which is viewable by using a web browser on one of the plurality of user terminals (Application at Figure 2B; page 10, lines 2-22). This allows the claimed invention to conveniently provide an adjusted price (e.g., an automatically adjusted price) to a buyer via the Internet.

Clearly, this novel feature is not taught or suggested by the alleged APA. Indeed, the Examiner basically concedes this on page 6 of the Office Action, but alleges that Walker '268 discloses this feature and that Walker'268 would have been combined with the alleged APA to make up for the deficiencies of the alleged APA. The Examiner is clearly incorrect.

Indeed, Walker '268 deals only with restaurant menus and is completely unrelated to the claimed invention. For example, nowhere does Walker '268 even mention the Internet. In fact, Applicant would respectfully submit that the restaurant would likely use a personal computer in a

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back room of the restaurant to enter/manipulate data in the price management table database ~~500~~ of the Walker '268 system. That is, no person of ordinary skill in the art would consider modifying the negotiation system of the alleged APA to include the dynamically generated menu of Walker '268.

Further, the Examiner is attempting to rely on col. 6, lines 16-65 in Walker '268 to support his position. However, nowhere in this passage, or anywhere else for that matter, does Walker '268 teach or suggest an adjusted price which is included in a document which is viewable by using a web browser on one of said plurality of user terminals. Indeed, Walker '268 merely teaches a restaurant menu that is likely contained on a personal computer located at the restaurant. In fact, the menu is for the benefit of the customers who are eating at the restaurant and, thus, there is no reason to make the menu accessible via the Internet.

Therefore, Applicant submits that these alleged references would not have been combined and even if combined, the alleged combination would not teach or suggest each and every element of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

VI. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-18, 42 and 44-56, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

Date: 2/16/05

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment was filed by facsimile with the United States Patent and Trademark Office, Examiner Joseph A. Fischetti, Group Art Unit # 3627 at fax number (703) 872-9306 this 16th day of February, 2005.



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